

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MURs: 7065

Respondents: Joe Montes for Congress 2016,
and Thomas Montgomery,
as treasurer
(collectively the "Committee")¹

Complaints Receipt Date: May 17, 2016

Response Dates: June 3, 2016

EPS Rating:

Alleged Statutory
Regulatory Violations:

52 U.S.C. § 30120(a)(1), (c)
11 C.F.R. § 110.11(a)(1), (b)(1), (c)(1)-(2)

The Complaint alleges that the Committee sent out a mass mailing—a one-page letter—that lacked an appropriate disclaimer.² The letter includes the Committee's logo, the phrase "Joe Montes for Congress 2016," and the Committee's website and Facebook addresses, but does not contain the required "paid for by" disclaimer language. The mailing envelope for the letter includes the Committee's logo and name, and the Committee's mailing address. The Committee admits that it mistakenly omitted the "paid for by" disclaimer language on the letter.³

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity

¹ Montes was a candidate for the U.S. House of Representatives in the First District of California. Montes received 17% of the vote in the June 7, 2016, primary election. See <http://elections.cdn.sos.ca.gov/sov/2016-primary/2016-complete-sov.pdf>. Accessed March 29, 2017.

² The Complaint attached a copy of the letter and the mailing envelope.

³ Whenever a political committee makes a disbursement for a communication through a mailing or general public political advertising, the Act and Commission regulations require that the communication shall clearly state that it has been paid for by the committee. 52 U.S.C. § 30120(a)(1). See also 11 C.F.R. § 110.11(a)(1), (b)(1). The disclaimer on any printed communication must be of sufficient type size to be clearly readable, and must be contained in a printed box set apart from the other contents of the communication. 52 U.S.C. § 30120(c)(1)-(2). See also 11 C.F.R. § 110.11(c)(2)(i)-(ii). Certain printed items are excepted from the disclaimer requirements. 11 C.F.R. § 110.11(f)(1).

and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, and the fact that it is unlikely the general public would have been misled as to who was responsible for the letter, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

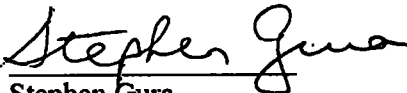
Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel

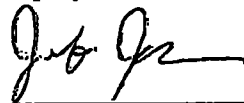
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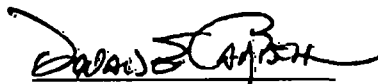
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